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REC'D \_\_\_\_\_ FILED *pk*  
CAMERON C. BURNIE  
CLERK IDAHOIN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF IDAHO

In Re:

RAYMOND T. WARE  
RENDA T. WARE

Debtor(s).

Chapter 13 Case  
97-02722  
TRUSTEE'S FINDINGS  
AND RECOMMENDATIONS  
ON AMENDED PLANTRUSTEE: L. D. FITZGERALD  
DEBTORS ATTORNEY: Brent T. Robinson  
DATE OF HEARING: January 28, 1998TRUSTEE'S FINDINGS AND RECOMMENDATIONS

- YES      (1) The Plan complies with requirements of Chapter 13 Title 11 USC
- YES      (2) Required fees have been paid.
- YES      (3) Plan is proposed in good faith.
- (4) Value of property to be distributed is \$NONE. The amount that would be paid to unsecured creditors under Chapter 7 is \$375.00.
- NO      (5) Section 1325(a)(5) of the Bankruptcy Code is satisfied.
- YES      (6) Debtor will be able to make payments and comply with the Plan.
- NO      (7) Trustee recommendations as to Confirmation Yes X No.

## MATTERS IN ISSUE:

OBJECTION TO CONFIRMATION: D. L. EVANS BANK, Attorney Jerry Jensen

1. Payments to creditor is \$13,000.00 less than the secured value.

OBJECTION TO CONFIRMATION: FIRST SECURITY BANK, Kevin Trainor, Attorney

1. Plan does not comply with section 1325.
2. Debtor does not pay value as of the effective date of the plan.
3. Plan does not provide for creditor to retain lien.
4. Plan does not provide an agreed rate of interest.
5. No proof debtor will be able to make the payments.
6. Creditor is cross collateralized on all debts.

OBJECTION TO CONFIRMATION: RICHARD SABEV

1. Debtor is not paying all disposable income into the plan. Payments are too little.

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TRUSTEE:

1. Trustee objects to the debtors budget. Debtor has scheduled tithing in the amount of \$150.00 per months. With the amount of debt and the fact the plan only proposes to pay \$275.00 to unsecured creditors Trustee requires the amount of the monthly payment to be increased to \$2010.00.

2. Need an affidavit of attorney fees.

3. Without the increase in payments because of the tithing, the plan is underfunded by \$25.00 per month.

4. TRUSTEE BELIEVES THE DEBTOR DOES NOT QUALIFY FOR RELIEF UNDER CHAPTER 13. McMullin, McPhee & Co. L.L.C. has filed an unsecured claim in the amount of \$329,503.50. The debtors schedules show an amount due of -0-. It is not listed as contingent, unliquidated or disputed. The total amount of unsecured claims is \$381,337.86. This amount is greater than the \$250,000.00 that is allowed to qualify. If this is a secured claim, then the debtor does not qualify because the secured debt would be over the \$750,000.00.

DATED: January 28, 1998



TRUSTEE